

CHECKLIST FOR REPLY BRIEFS

Filed Pursuant to 37 CFR 41.41 and 37 CFR 41.39

(For the Current Rules in Effect)

- Y N
1. **Reply Brief timely filed** – Appellant may file a reply brief to an examiner’s answer within two months from the date of the of examiner’s answer. 37 CFR 41.41(a)(1).
Note: Extensions of time under 37 CFR 1.136(a) are not permitted.
- Y N
2. **Reply Brief signed** – See 37 CFR 1.33 and 37 CFR 1.34. Note: **S-signature is acceptable.**
- Y N
3. **New or non-admitted amendment** – A reply brief shall not include any new or non-admitted amendment. See 37 CFR 41.41(a)(2).
If “Yes”, the reply brief is not in compliance with 37 CFR 41.41 and may not be considered.
- Y N
4. **New or non-admitted evidence** – A reply brief shall not include any new or non-admitted evidence. See 37 CFR 41.41(a)(2).
If “Yes”, the reply brief is not in compliance with 37 CFR 41.41 and may not be considered.

NOTE: The primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner’s answer responding to any new issue raised in the reply brief. See 37 CFR 41.43(a)(1).

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5. **Responsive to New Ground of Rejection in an Examiner’s Answer** – If an examiner’s answer contains a rejection designated as a new ground of rejection, appellant must within two months from the date of the examiner’s answer exercise one of the following two options to avoid sua sponte dismissal of the appeal as to the claims subject to the new ground of rejection: (1) reopen prosecution by filing a reply under 1.111 with or without amendment or submission of affidavits, OR (2) maintain the appeal by filing a reply brief as set forth in § 41.41. See 37 CFR 41.39(b).

NOTE: A reply brief filed pursuant to 37 CFR 41.39 may not be accompanied by any amendment, affidavit (§§ 1.130, 1.131, or 1.132 of this title) or other evidence. If a reply brief filed pursuant to this section is accompanied by any amendment, affidavit, or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under paragraph (b)(1) of this section. See 37 CFR 41.39(b)(2).

This checklist does not apply to reexamination proceedings.